

**REMARKS**

Applicants have carefully reviewed the Final Office Action dated September 1, 2009, and Applicants respectfully request reconsideration of the present application in view of the following remarks. No new matter has been added.

Claims 1-2 and 5-18 are currently pending in this application, with claims 1, 5 and 12 being independent.

**I. Claim Rejection under 35 U.S.C. §103**

Claims 1-2 and 5-16 are rejected under 35 U.S.C. §103(a) as unpatentable over Smith et al. (U.S. Patent No. 6,891,811) in view of Flom et al. (U.S. Patent Application Publication No. 2001/0054087) and further in view of Mamdani et al. (US Patent No. 7,240,036). Applicants respectfully traverse this rejection for reasons set forth below.

**1. Claim 1**

As amended by the forgoing amendment, claim 1 is directed to a system comprising: “a proximity reader configured to interact with a mobile station presented to the proximity reader by a user, wherein the proximity reader is configured to use short range proximity signaling to receive identification information from the mobile station; a plurality of servers configured to provide authentication of user, wherein one of the plurality of servers initiates a voice call to the mobile station, in order to request an authentication code from the user of the mobile station, and receives the authentication code entered into the mobile station by the user using one or more function keys of the mobile station; a plurality of point of sale terminals configured to provide access to transaction information; and a messaging system configured to provide mobile commerce messaging with the user, wherein the mobile commerce messaging includes digital

content of at least one of digital cash, coupons, advertisements, games, ring-tones, graphics, videos via messaging, or promotion of a plurality of different items to purchase.”

Support for the amendment is found within the specification as originally filed, at least within paragraphs [00131] through [00139].

Smith et al. arguably teaches a short messaging service center mobile-originated to HTTP internet communication. Flom et al. arguably teaches a portable internet service. Mamdani et al. arguably teaches a method and system for facilitation of wireless e-commerce transactions.

The Examiner asserts that “Smith et al. discloses a system ... wherein the plurality of servers are configured to initiate a voice call to the mobile station (See Smith, Col. 4, lines 6-14).” However, Smith et al. fails to disclose, teach or suggest “one of the plurality of servers initiates a voice call to the mobile station, in order to request an authentication code from the user of the mobile station.”

**At column 4, lines 6-13, Smith discloses as follows:**

“FIG. 8 shows a pending short message delivery process in a conventional short message service network after the mobile subscriber becomes available for delivery of the retained messages. In particular, in FIG. 8, when the subscriber 704 turns his or her handset on or comes within the service area, the subscriber's handset sends a registration signal 709 to the MSC 703. The registration signal 709 may or may not include authentication process.” (Emphasis added).

Thus, Smith teaches the subscriber's handset sends a registration signal 709 to the MSC 703, and the registration signal 709 may include authentication process. However, Smith fails

to teach the MSC or any other unit initiates a voice call to the mobile station in order to request an authentication code from the user of the mobile station.

In Mamdani et al., although a user of a wireless phone call into a secure server, the server does not initiate a voice call to the wireless phone. See Mamdani et al., Col. 3, line 62 through Col. 4, line 19.

Further, Flom et al. fails to teach or suggest that “one of the plurality of servers initiates a voice call to the mobile station, in order to request an authentication code from the user of the mobile station.”

Thus, claim 1 is patentable over the applied art. Accordingly, withdrawal of this rejection and allowance of the claim is respectfully requested.

Please note that rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.

**MPEP § 2141 III states as follows:**

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in KSR noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court quoting In re Kahn, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of

obviousness.” KSR, 550 U.S. at \_\_\_, 82 USPQ2d at 1396. (Emphasis added.)

If the Examiner insists that Smith teaches or suggests the MSC or any other unit initiates a voice call to the mobile station in order to request an authentication code from the user of the mobile station, Applicants respectfully request articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. Otherwise, withdrawal of the rejection and allowance of the claim is respectfully requested.

## **2. Claim 2**

It is respectfully submitted that since claim 2 depends on claim 1, it is allowable for at least the reasons that claim 1 is allowable, and it is further allowable by reason of the additional limitations set forth therein.

## **3. Claims 5 and 12**

Claim 5 is directed to a method comprising: “using a mobile station configured for short range proximity signaling and two way messaging to provide a short range proximity signal to a proximity reader; presenting said mobile station to said proximity reader; providing identification information to a payment system; receiving verification of identity information from the payment system at said mobile station, wherein the verification of identity information includes indicia of a unique transaction confirmation code generated by the payment system, wherein the unique transaction confirmation code links an electronic bill of a user of the mobile station to a payment account for the user; ordering a plurality of products and accumulating charges; and receiving on a display of said mobile station the electronic bill for a total charge.”

Claim 12 is directed to an apparatus comprising “a processor configured to cause the apparatus to: provide a short range proximity signal to a proximity reader; provide identification

information to a payment system; receive verification of identity information from the payment system, wherein the verification of identity information includes indicia of a unique transaction confirmation code generated by the payment system, wherein the unique transaction confirmation code links an electronic bill of a user to a payment account for the user; submit an order for a plurality of products to the payment system; and receive the electronic bill for a total charge.”

The Office Action does not refer to the recitation of “the unique transaction confirmation code links an electronic bill of a user of the mobile station to a payment account for the user” with respect to claims 5 and 12. Thus, the Office Action fails to articulate the reasoning of the obviousness rejection under 35 U.S.C. 103(a), so that prima facie case of obviousness has not been met.

Neither Smith et al. nor Flom et al. teaches “the unique transaction confirmation code links an electronic bill of a user of the mobile station to a payment account for the user.”

Mamdani et al. teaches that first and second transaction barcodes are sent to the mobile device. Item 104b of FIG. 2 merely describes comparing a spoken transaction requester authentication code with an authentic voice print for authentication purposes. The spoken transaction is communicated from a wireless communication device to a box 104a and then compared to a known authentic voice print for an authorized user of the wireless communication device. Accordingly, the voice print and spoken transaction requester authentication code are not unique to a single transaction. That is, as indicated in Mamdani et al., Col. 4, lines 10 – 19, for example, the voice authentication includes the user of speaking their phone number. Thus, the phone number is not unique to a single transaction. In addition, the transaction requester authentication code is not generated by a payment system.

Moreover, although Mamdani et al. teaches a transaction code, it fails to teach the unique transaction confirmation code links an electronic bill of a user to a payment account for the user.

Thus, claims 5 and 12 are patentable over the applied art. Therefore, withdrawal of the rejection and allowance of the claims is respectfully requested.

#### **4. Claims 6-11 and 13-16**

Since claims 6-11 and 13-14 depend on claim 5, they are allowable for at least the reasons that claim 5 is allowable respectively and they are further allowable by reason of the additional limitations set forth therein.

Also, claims 15 and 16 depend on claim 12, they are allowable for at least the reasons that claim 12 is allowable respectively, and they are further allowable by reason of the additional limitations set forth therein.

#### **5. Newly added claims 17 and 18**

Claims 17 and 18 have been added by the foregoing amendment, in order to claim various features of the invention. Similarly to the argument of claim 1, the applied art fails to teach “receiving a voice call initiated by the payment system” or “the processor is further configured to cause the apparatus to receive a voice call initiated by a payment system.” Thus, claims 17 and 18 are patentable over the applied art. Therefore, allowance of these claims is respectfully requested.

#### **II. Conclusion**

In view of the following arguments, all claims are believed to be in condition for allowance over the prior art of record. Therefore, this response is believed to be a complete response to the Office Action. However, Applicants reserve the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the

dependent claims not explicitly addressed herein, in future papers. Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03. Therefore, the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible. To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

DITTHAVONG MORI & STEINER, P.C.

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Date

/Phouphanomketh Ditthavong/

Phouphanomketh Ditthavong  
Attorney/Agent for Applicant(s)  
Reg. No. 44,658

Toshikatsu Imaizumi  
Attorney/Agent for Applicant(s)  
Reg. No. 61,648

918 Prince Street  
Alexandria, VA 22314  
Tel. (703) 519-9952  
Fax (703) 519-9958